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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,082	07/30/2001	Yehia Awada	PA114-01	9110

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EXAMINER

CAPRON, AARON J

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 07/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/917,082

Applicant(s)

AWADA, YEHIA

Examiner

Aaron J. Capron

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3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10/09/01.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

MARK SAGER

PRIMARY EXAMINER

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Lo (U.S. Patent No. 6,402,147).

Lo discloses a method of playing a game wherein the steps are dealing cards to a player, providing an opportunity for a player to make a wager on a rank of a poker hand from the cards dealt (3:1-10), dealing out community cards (5:1-7), providing an opportunity to make a wager based on cards dealt and the community cards (2:15-26), and settling wagers.

Claims 17-18 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by The Poker Page reference to the game Three Fifty Seven (hereafter "357").

### *Claim Rejections - 35 USC § 103*

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-6 and 8-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lo in view of 357.

Referring to claims 2-3 and 8-9, Lo discloses a method wherein the player is dealt three cards and 4 community cards to create a seven card poker hand, but does not disclose having a player wagering on a three card poker, five card poker and a seven card poker. However, 357 discloses having a poker game that initially starts out with three card and discloses a player wagering on a three card wager, a five card wager and a seven card wager. One would be motivated to combine the two references since each game uses seven cards and emphasize that multiple wagers increase the opportunity of winnings. Since a player of 357 initially starts off with 3 cards, one would motivated to alter the game in order to accommodate a game of eight or more players, such as using two or four community cards. Games using community cards allow more players to play from single deck, thereby increasing the pot due to more players playing. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate wagering after the three, five and seven card wager into the game since the extra wagering would add more betting rounds and create more excitement among the players.

Referring to claim 4, Lo in view of 357 discloses a poker game, but does not disclose that the community cards are dealt face down. However, it is notoriously well known in the art to

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deal the community cards face down in order to generate larger pots. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deal the community cards face down because the players do not know the outcome and therefore, more risk taking shall take place.

Referring to claim 5, Lo in view of 357 discloses a poker game, but does not disclose that the community cards are dealt face up. However, it is notoriously well known in the art to deal the community cards face up (such as the poker game of Texas Hold'em). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to deal the community cards face up because the cards could be dealt out face up after the player sees the cards in their hands without losing the appeal of risk to the game.

Referring to claims 6 and 12, Lo discloses using a joker as a wild card (1:34-41).

Referring to claims 7 and 13, Lo discloses a method of playing poker that includes using a bonus payout to the player based upon a poker hand being higher than a known rank (7:9-19).

Referring to claim 10, Lo in view of 357 discloses a poker game, but does not disclose having a betting round to increase the wager prior to the cards being turned face up. However, it is well known in the art (seven card stud poker) that each card flipped over generates an additional betting round. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add a betting round for each card turned face up in order to generate a larger pot for a player to win.

Referring to claim 11, Lo in view of 357 discloses that a player can rescind the seven card wager upon forfeiture of a portion of the seven card poker wager (357 rules).

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Referring to claim 14, Lo discloses having a seven card stud type of game wherein a player can receive 4 cards and three community cards to form the best five card poker hand out of seven cards, but does disclose wagering and paying out based on a three card poker hand. However, 357 discloses wagering and paying out based on a three card poker hand. One would be motivated to combine the references in order to accommodate 8 or more players and since both games relate to versions of 7 card stud poker. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate 357's method into Lo's because the additional betting round could create the possibility of having multiple winners in one hand and generate more interest amongst players.

Referring to claims 15, Lo discloses using a joker as a wild card.

Referring to claims 16, Lo discloses a method of playing poker that includes using a bonus payout to the player based upon a poker hand being higher than a known rank.

Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weingardt (U.S. Patent No. 5,042,818) in view of Jones (U.S. Patent No. 6,402,150).

Weingardt discloses a poker game where a player has an option of placing a five card and seven card wager (4:29-42), the option of playing 5 card draw poker with the first five cards (2:60-3:7), the ability to make a five card payout to the player based on the wager, providing two additional cards faced up, and making a seven card payout to the player based upon rank of five cards in the seven card hand (13:1-50), but does not make two separate payouts. However, Jones discloses a poker game that has two separate payouts on the same hand (2:49-3:5). One would be motivated to combine the two references since both refer to casino card games, specifically to

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poker. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add an extra payout to Weingardt's invention because the machine would create a better chance of winning and therefore create more interest among players.

Referring to claim 20, Weingardt in view of Jones discloses a poker game, but does not disclose using a joker as a wild card. However, it is notoriously well known in the art of playing poker, as a variation, to use jokers as wild cards. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate jokers into the card game because of the potential to create larger hands and bigger payouts would generate interest among players.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Banyai (U.S. Patent No. 5,810,354) for explaining, that for Texas Hold'em, the community cards are face up (2:9-27).

Neal (U.S. Patent No. 5,486,005) for explaining that for stud poker games that cards can be dealt face down in order to create additional rounds of betting (9:50-58).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-F 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-9302 for regular communications and (703) 746-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc  
July 10, 2002

A handwritten signature in black ink, appearing to be 'MS', with a long horizontal line extending to the right.

MARK SAGER  
PRIMARY EXAMINER